

VOLUME 5

COURT OF CRIMINAL APPEALS NO. _____

CR-02-0739

Appeal To Alabama Court of Criminal Appeals

FROM

Circuit Court of Russell County, Alabama**CIRCUIT COURT NO** _____ CC-02-186-188**CIRCUIT JUDGE** _____ HONORABLE GEORGE R. GREENE**Type of Conviction/ Order Appealed From:** _____

TRAFFICKING METH , POSS OF REC CONT SUBS, RESISTING ARREST

Sentence Imposed: _____

35 YRS CONCUR, 5 YRS CONCUR, 6 MTHS CONSEC

Defendant Indigent: _____☐ YES ☒ NO**JERRY E. WHITLEY****Name of Appellant**

ATTY MICHAEL J WILLIAMS SR (205)-705-0200

(Appellant's Attorney)

(Telephone No.)

P.O. BOX 1068

(Address)

AUBURN, AL 36831

(City)

(State)

(Zip Code)

V.**STATE OF ALABAMA****Name of Appellee**

(State represented by Attorney General)

NOTE: If municipal appeal, indicate above, and enter

name and address of municipal attorney below.

(For Court of Criminal Appeals Use Only)

1 As a juror, you will be the sole and
2 exclusive judge of the facts. It will be your
3 duty to attempt to reconcile the testimony of all
4 the witnesses so as to make them all speak the
5 truth, if this can be done reasonably. If you
6 cannot reasonably reconcile all the testimony, it
7 is then your duty to consider the testimony with
8 a view of determining what the true facts are.
9 In so doing, you may accept or reject any part of
10 the testimony of any witness and accept only the
11 testimony you consider worthy of belief.

12 In determining what the true facts are from
13 the evidence, you may take into consideration any
14 natural interest or bias a witness may have as a
15 result of any connection with the case. You may
16 take into consideration the interest or bias a
17 witness may have shown while testifying. And you
18 may take into consideration the demeanor of any
19 witness, as to whether the witness has apparently
20 testified frankly or evasively. You may take
21 into consideration any matter which you would in
22 your everyday affairs in passing upon the
23 truthfulness and accuracy of the testimony.
24 Weigh the testimony in the light of your common
25 observation and experience and reach a verdict

1 that will be based upon the truth as you
2 determine it from all of the evidence. In
3 arriving at a verdict in this case, you must not
4 permit sympathy, prejudice or emotion to
5 influence you.

6 There is a presumption of innocence of the
7 Defendant until the State proves beyond a
8 reasonable doubt that the Defendant is guilty as
9 charged. Before a conviction may be had in this
10 case, the State must satisfy each and every
11 member of the jury of the Defendant's guilt
12 beyond a reasonable doubt. Even if the State
13 demonstrates a probability of guilt, if it does
14 not establish it beyond a reasonable doubt, you
15 must acquit the Defendant.

16 The phrase reasonable doubt is
17 self-explanatory. Efforts to define it do not
18 always clarify the term. It is not a mere
19 possible doubt because everything relating to
20 human affairs is open to some possible or
21 imaginary doubt. A reasonable doubt is a doubt
22 of a fair-minded juror honestly seeking the truth
23 after careful and impartial consideration of all
24 the evidence in the case. It is a doubt based
25 upon reason and common sense. It does not mean a

1 vague or arbitrary notion, but is an actual doubt
2 based upon the evidence, the lack of evidence, a
3 conflict in the evidence or a combination of
4 those things. It is a doubt that remains after
5 going over in your minds the entire case and
6 giving consideration to all the testimony. It is
7 distinguished from a doubt arising from mere
8 possibility, from bare imagination, or from
9 fanciful conjecture.

10 If, after considering all the evidence, you
11 are convinced of the Defendant's guilt beyond a
12 reasonable doubt, then it would be your duty to
13 convict the Defendant. However, if you still
14 have a reasonable doubt, then the Defendant is
15 entitled to the benefit of that doubt and you
16 should acquit him.

17 An expert witness is one who, by education,
18 training or experience, has attained skill,
19 knowledge or experience in some science,
20 profession, business or occupation that is not of
21 common knowledge to the average layman. There
22 have been two individuals who have testified
23 today who have been qualified as an expert
24 witness, and there has been one document
25 submitted into evidence in which there is a

1 finding by an expert witness.

2 Expert witnesses have been permitted to
3 express their opinions and draw conclusions
4 either on the stand or in a written document. In
5 passing upon the facts, you are not required to
6 accept the conclusions or expressed opinions of
7 expert witnesses, but must determine for
8 yourselves the weight to be given to such
9 testimony and evidence when considered in
10 connection with all the other evidence material
11 to the case.

12 The Defendant, Jerry E. Whitley, is charged
13 with trafficking in methamphetamine. A person
14 commits the crime of trafficking in
15 methamphetamine if he knowingly either sells,
16 manufactures, delivers or brings into the state
17 or is in actual or constructive possession of
18 methamphetamine or any mixture containing
19 methamphetamine, its salt, optical isomer, or
20 salt of its optical isomer, in excess of 28
21 grams.

22 To convict, the State must prove beyond a
23 reasonable doubt each of the following elements
24 of trafficking in methamphetamine: One, that the
25 Defendant, Jerry E. Whitley, manufactured or

1 knowingly was in actual or constructive
2 possession of, two, methamphetamine or any
3 mixture containing methamphetamine, three, in
4 excess of 28 grams, and, four, that in doing so
5 he acted knowingly and intentionally.

6 A person acts knowingly with respect to
7 conduct or to a circumstance when he is aware
8 that his conduct is of that nature or that the
9 circumstance exists, and a person acts
10 intentionally with respect to a result or to
11 conduct when his purpose is to cause that result
12 or to engage in that conduct.

13 A mixture is defined to include a portion of
14 matter consisting of two or more components that
15 do not bear a thick proportion to one another and
16 that however thoroughly comingled are regarded as
17 retaining a separate existence. A mixture is
18 also defined as two substances blended together
19 so that the particles of one are diffused among
20 the particles of the other.

21 If you find from the evidence that the State
22 has proved beyond a reasonable doubt each of the
23 above elements of the offense of trafficking in
24 methamphetamine as charged, then you shall find
25 the Defendant, Jerry E. Whitley, guilty of

1 trafficking in methamphetamine. If you should
2 find from the evidence the Defendant is guilty of
3 the offense of trafficking in methamphetamine,
4 then you would go on to answer by unanimous vote
5 the following question or questions: Did the
6 Defendant, Jerry E. Whitley, possess a firearm
7 during the commission of the crime of trafficking
8 in methamphetamine. And if you did, you would
9 select the verdict form that reads, "We, the
10 jury, find the Defendant, Jerry E. Whitley, did
11 possess a firearm during the commission of the
12 crime of trafficking in methamphetamine.
13 However, if you find that he did not possess a
14 firearm during the commission of the offense, you
15 would select the jury form or question form that
16 reads, "We, the jury, find the Defendant, Jerry
17 E. Whitley, did not possess a firearm during the
18 commission of the crime of trafficking in
19 methamphetamine. And you would answer either of
20 those two questions only if you find the
21 Defendant guilty of the offense of trafficking in
22 methamphetamine.

23 If you find that the State has failed to
24 prove beyond a reasonable doubt any one or more
25 of the elements of the offense of trafficking in

1 methamphetamine, then you cannot find the
2 Defendant, Jerry E. Whitley, guilty of the
3 offense of trafficking in methamphetamine and you
4 must acquit him.

5 The Defendant, Jerry E. Whitley, is charged
6 in a second indictment with unlawful possession
7 of a controlled substance, in this instance
8 methamphetamine. A person commits the crime of
9 unlawful possession of a controlled substance if
10 he possesses a controlled substance.

11 To convict, the State must prove beyond a
12 reasonable doubt each of the following elements
13 of unlawful possession of a controlled
14 substance: One, that the Defendant, Jerry E.
15 Whitley, did possess a controlled substance,
16 namely methamphetamine. Two, that the Defendant
17 acted knowingly and intentionally. Knowingly and
18 intentionally have the same definition as
19 previously read to you.

20 If you find from the evidence that the State
21 has proved beyond a reasonable doubt the offense
22 of unlawful possession of a controlled substance,
23 namely methamphetamine, as charged, you shall
24 find the Defendant, Jerry E. Whitley, guilty of
25 unlawful possession of a controlled substance.

1 However, if you find that the State has failed to
2 prove beyond a reasonable doubt any one or more
3 of the elements of unlawful possession of a
4 controlled substance, namely methamphetamine,
5 then you cannot find the Defendant guilty of
6 unlawful possession of a controlled substance and
7 you must acquit him.

8 The Defendant, Jerry E. Whitley, is charged
9 in a third indictment with the crime of resisting
10 arrest. A person commits the crime of resisting
11 arrest if he intentionally prevents or attempts
12 to prevent a peace officer from effecting a
13 lawful arrest of himself.

14 To convict, the State must prove beyond a
15 reasonable doubt each of the following elements
16 of resisting arrest: One, that the Defendant,
17 Jerry E. Whitley, prevented or attempted to
18 prevent Jim Price, a peace officer, from
19 effecting a lawful arrest of himself. Two, the
20 Defendant, Jerry E. Whitley, acted
21 intentionally. A person acts intentionally with
22 respect to a result or to conduct when his
23 purpose is to cause that result or to engage in
24 that conduct.

25 If you find from the evidence that the State

1 has proved beyond a reasonable doubt the offense
2 of resisting arrest as charged and proved each of
3 those elements, then you shall find the
4 Defendant, Jerry E. Whitley, guilty of resisting
5 arrest. If you find that the State has failed to
6 prove beyond a reasonable doubt any one or more
7 of the elements of resisting arrest, then you
8 cannot find the Defendant guilty of resisting
9 arrest and you must acquit him.

10 The State of Alabama has presented a case
11 based in part upon circumstantial evidence. It
12 is permissible for the State to prove its case by
13 circumstantial evidence. Direct evidence usually
14 means eyewitness testimony, where a person gives
15 testimony as to something seen, heard or felt.
16 Circumstantial evidence is the kind of evidence
17 from which you can infer other facts.

18 I often use rain as an example of
19 circumstantial evidence. If you leave the
20 courthouse and you see the street wet, you might
21 conclude that it has rained. In other words, you
22 take one fact and infer another fact from it.
23 That's proof by circumstantial evidence. But a
24 fire hydrant might have been flushed by the
25 utilities department or a street sweeper might

1 have come by releasing water, so there are other
2 ways the street could have gotten wet. But if
3 you go further and you look past the road and you
4 see mud holes nearby, and you look in the
5 distance and you see clouds and see lightning and
6 hear thunder, this combination of circumstantial
7 evidence is such that you can conclude beyond all
8 reasonable doubt that it has rained. The test of
9 sufficiency of circumstantial evidence is whether
10 the evidence adduced by the State is sufficient
11 to exclude every other possibility than the guilt
12 of the Defendant.

13 Now, possession may be constructive or
14 actual, and it doesn't require ownership. I own
15 these glasses, and I have the right to exclude
16 anyone from taking them. And you can readily see
17 when I have them on my face that they're in my
18 possession. I own these glasses in this
19 instance. They're still in my possession, even
20 though they're not on my face. I have the right
21 to exclude anyone from coming and taking them
22 from me. So it doesn't have to actually be on
23 the person to have possession. You have to have
24 exercised dominion or control over.

25 And there's a third situation of possession

1 that I will show you, it doesn't require
2 ownership. Suppose that when I came to work this
3 morning, I forgot my glasses. And I could not
4 read this jury charge out to you without glasses,
5 so I borrowed them from someone. They are now in
6 my possession, and I have the right to exclude
7 someone from coming and taking them from me.
8 Even though they're borrowed glasses, they're in
9 my possession.

10 Where an illegal drug is comingled with or
11 diffused in a mixture, you may count the weight
12 of the entire mixture in determining if the
13 Defendant knowingly possessed 28 grams or more of
14 a methamphetamine mixture.

15 When a controlled substance is found on
16 premises controlled by the Defendant, there is a
17 rebuttable presumption created under the law that
18 the Defendant possessed the controlled
19 substance.

20 Constructive possession occurs when the
21 Defendant exerts or is able to exert dominion and
22 control over a controlled substance, and
23 knowledge of a controlled substance may be
24 established by circumstantial evidence, but it
25 does not depend upon ownership, but it does

1 require possession.

2 Conviction for the possession of illegal
3 drugs cannot be based on constructive possession
4 alone. When the State relies on constructive
5 possession, it is necessary that the prosecution
6 prove that the Defendant had knowledge of the
7 presence of the illegal drugs. Moreover, where
8 the accused is not in exclusive possession of the
9 premises upon which illegal drugs are found, this
10 knowledge may not be inferred without other
11 evidence that connects the Defendant with the
12 contraband.

13 One of the elements which the State must
14 prove in this case is possession. What is meant
15 by possession. To possess means to have actual
16 and immediate dominion or control over the object
17 alleged to be possessed. There are two kinds of
18 possession, actual and constructive. Where the
19 State seeks a conviction based on the accused's
20 alleged constructive possession of illegal drugs,
21 it must establish that the accused had knowledge
22 of the presence of those drugs. There is an
23 inference of constructive possession when the
24 controlled substance is found on the premises
25 owned or controlled by the accused. These

1 elements are necessary to establish possession of
2 the controlled substance, their actual or
3 potential physical control, intention to exercise
4 dominion and external manifestation of intent and
5 control.

6 The Court has prepared verdict forms for you
7 in this case. There are three cases for you to
8 consider, and there are two potential verdicts in
9 each of these two cases. And as previously
10 explained to you, if you should find the
11 Defendant guilty of the offense of trafficking in
12 methamphetamine, there is an additional question
13 or questions for you to answer. No inferences
14 should be drawn from the order in which these
15 forms are explained or delivered to you.

16 After the Court has finished its explanation
17 of the forms to you, the verdict forms will be
18 sent with you to the jury room, and you will
19 retire to the jury room to begin your
20 deliberations and to select your verdict. Your
21 first duty when you retire to the jury room will
22 be to elect one of your number as foreperson to
23 moderate your discussion and sign and return the
24 verdicts chosen by you to the Court. Any verdict
25 which you return to the Court must be agreed upon

1 by all 12 jurors. In other words, your decisions
2 must be unanimous. When you have reached your
3 verdicts, please notify Mr. Mitchell, the
4 bailiff, that you have reached your verdicts and
5 he will in turn notify the Court. You will then
6 be returned to the Court to deliver your
7 verdicts.

8 There has been an additional juror selected
9 today as an alternate juror. We do not tell the
10 alternate juror in advance who that person is in
11 case they should think, well, I'm not one of the
12 first 12 jurors and I don't have to pay strict
13 attention as the other jurors. The alternate
14 today was Mr. Landingham. Mr. Landingham, I will
15 excuse you at this time, and I have your check
16 for your service this week.

17 JUROR LANDINGHAM: Okay.

18 THE COURT: And thank you for being here
19 today. This will conclude your service.

20 JUROR LANDINGHAM: Thank you.

21 THE COURT: Thank you.

22 (Alternate juror excused.)

23 THE COURT: The first charge for you to
24 consider will be the charge of trafficking in
25 methamphetamine. If, from the evidence, you

1 should find that the Defendant, Jerry E. Whitley,
2 is guilty of the offense of trafficking in
3 methamphetamine, you would select the guilty
4 verdict form that reads, "We, the jury, find the
5 Defendant, Jerry E. Whitley, guilty of the
6 offense of trafficking in methamphetamine as
7 charged in the indictment. Should that be your
8 verdict, you would go on to consider the question
9 of did Jerry Whitley possess a firearm during the
10 commission of the crime of trafficking in
11 methamphetamine.

12 If you find that he did, in fact, possess a
13 firearm during the commission of the offense of
14 the crime of trafficking in methamphetamine, you
15 would select the jury verdict form that reads,
16 "We, the jury, find the Defendant, Jerry E.
17 Whitley, did possess a firearm during the
18 commission of the crime of trafficking in
19 methamphetamine. If, however, after finding him
20 guilty of the offense of trafficking in
21 methamphetamine, you find that he did not possess
22 a firearm during the commission of that offense,
23 you would select the jury verdict form that
24 reads, "We, the jury, find the Defendant, Jerry
25 E. Whitley, did not possess a firearm during the

1 commission of the crime of trafficking in
2 methamphetamine. And if that should be your
3 verdict on that question, it should be signed and
4 dated by the foreperson of the jury.

5 If, however, you find the Defendant, Jerry
6 E. Whitley, not guilty of the offense of
7 trafficking in methamphetamine, you would select
8 the not guilty verdict form that reads, "We, the
9 jury, find the Defendant, Jerry E. Whitley, not
10 guilty of the offense of trafficking in
11 methamphetamine as charged in the indictment.

12 And if that should be your verdict, it should be
13 signed and dated by the foreperson of the jury.

14 The second charge or case brought against
15 the Defendant is the charge of unlawful
16 possession of a controlled substance. If, from
17 the evidence, you should find the Defendant
18 guilty of that offense, you would select the
19 guilty verdict form that reads, "We, the jury,
20 find the Defendant, Jerry E. Whitley, guilty of
21 the offense of unlawful possession of a
22 controlled substance as charged in the
23 indictment. And if that should be your verdict,
24 it should be signed and dated by the foreperson
25 of the jury. If, however, you find the Defendant

1 not guilty from the evidence, you would select
2 the jury verdict form that reads, "We, the jury,
3 find the Defendant, Jerry E. Whitley, not guilty
4 of the offense of unlawful possession of a
5 controlled substance as charged in the
6 indictment. And if that should be your verdict,
7 it should be signed and dated by the foreperson
8 of the jury.

9 The third charge for you to consider is the
10 charge of resisting arrest, and if, from the
11 evidence, you should find the Defendant guilty of
12 that offense, you would select the guilty verdict
13 form that reads, "We, the jury, find the
14 Defendant, Jerry E. Whitley, guilty of the
15 offense of resisting arrest as charged in the
16 indictment. And if that should be your verdict,
17 it should be signed and dated by the person you
18 elect as foreperson of your jury. If, however,
19 from the evidence, you find the Defendant not
20 guilty of that offense, you would select the not
21 guilty verdict form that reads, "We, the jury,
22 find the Defendant, Jerry E. Whitley, not guilty
23 of the offense of resisting arrest as charged in
24 the indictment. And if that should be your
25 verdict, it should be signed and dated by the

1 person you select as foreperson of the jury.

2 Mr. Landreau, do you have anything further?

3 MR. LANDREAU: State is satisfied, Your
4 Honor.

5 THE COURT: Ms. Farrar?

6 MS. FARRAR: Defense is satisfied.

7 THE COURT: That concludes the Court's
8 instruction. Mr. Mitchell will escort you to the
9 jury room to begin your deliberations. Elect a
10 foreperson on your first order of business. The
11 verdict forms will accompany you, and there will
12 be some exhibits that will accompany you to the
13 jury room. Other exhibits such as the controlled
14 substances will not be sent to the jury room with
15 you. Thank you.

16 (Jury retires to begin their
17 deliberations.)

18 (Jury notification to the bailiff.)

19 (Jury present.)

20 THE COURT: Welcome back, ladies and
21 gentlemen. It's my understanding you've reached
22 a verdict; is that correct?

23 THE FOREPERSON: Yes.

24 THE COURT: And have you been elected
25 foreperson?

1 THE FOREPERSON: Uh-huh (positive response)

2 THE COURT: Would you stand and read the
3 jury's verdict, please?

4 THE FOREPERSON: Does it matter what order?

5 THE COURT: It probably would be best for
6 you to read out the trafficking verdict first.

7 THE FOREPERSON: Okay.

8 THE COURT: All right. If you'll read that,
9 please?

10 THE FOREPERSON: We, the jury, find the
11 Defendant, Jerry E. Whitley, guilty of the
12 offense of trafficking in methamphetamine as
13 charged in the indictment.

14 THE COURT: And did you answer the question
15 and would you read the jury's verdict on the
16 question, please?

17 THE FOREPERSON: We, the jury, find that the
18 Defendant, Jerry E. Whitley, did possess a
19 firearm during the commission of the crime of
20 trafficking in methamphetamine.

21 THE COURT: And if you'll read the next
22 verdict out, please?

23 THE FOREPERSON: We, the jury, find the
24 Defendant, Jerry E. Whitley, guilty of the
25 offense of resisting arrest as charged in the

1 indictment.

2 THE COURT: The next verdict?

3 THE FOREPERSON: We, the jury, find the
4 Defendant, Jerry E. Whitley, guilty of the
5 offense of unlawful possession of a controlled
6 substance as charged in the indictment.

7 THE COURT: Mr. Mitchell, would you hand the
8 verdict forms to me, please, sir?

9 (Mr. Mitchell complies.)

10 THE COURT: All right, ladies and gentlemen
11 of the jury. The verdict forms have been filled
12 out in proper order. I'm going to start on the
13 first row, and I'm going to point to each of you
14 and ask is this your verdict in each of these
15 cases.

16 Is this your verdict, ma'am?

17 JUROR: Yes, sir.

18 THE COURT: Is this your verdict, ma'am?

19 JUROR: Yes.

20 THE COURT: Is this your verdict, sir?

21 JUROR: Yes, sir.

22 THE COURT: Is this your verdict, ma'am?

23 JUROR: Yes.

24 THE COURT: Is this your verdict, ma'am?

25 JUROR: Yes.

1 THE COURT: Is this your verdict, ma'am?

2 JUROR: Yes.

3 THE COURT: Is this your verdict, ma'am?

4 (Juror nods head affirmatively.)

5 THE COURT: Is this your verdict, ma'am?

6 JUROR: Yes.

7 THE COURT: Is this your verdict, sir?

8 JUROR: Yes.

9 THE COURT: Is this your verdict, sir?

10 JUROR: Yes.

11 THE COURT: Is this your verdict, sir?

12 JUROR: Yes.

13 THE COURT: And is this your verdict, sir?

14 JUROR: Yes, Your Honor.

15 THE COURT: Thank you, ladies and gentlemen
16 of the jury. That would conclude your service
17 for the week. I have your checks here for you as
18 well as a statement inside the envelope for your
19 employers if you need one.

20 (Jury dismissed.)

21 THE COURT: All right, Mr. Whitley. The
22 jury has returned verdicts finding you guilty of
23 the offense of unlawful possession of a
24 controlled substance, trafficking in
25 methamphetamine, and resisting arrest. The Court

1 will set sentencing for each of these three cases
2 to January the 14th, and that will be at 9:30
3 a.m. I think that's correct. I will direct that
4 a pre-sentence report be completed in this
5 matter. Be back in this courtroom on January the
6 14th, and that will be at 9:30 a.m.

7 MR. LANDREAU: Your Honor, for the record,
8 the State would ask the Court to sentence Mr.
9 Whitley under the provisions of the trafficking
10 statute that based on the amount proven at trial,
11 he would be subject to doing a minimum 15 years
12 which could not be probated or reduced, and an
13 additional five years based on the finding of the
14 gun.

15 THE COURT: The Court will look into that.
16 And sentencing is set, as I indicated, January
17 14th at 9:30 a.m. Thank you.

18 MS. FARRAR: Thank you, Your Honor.

19 (The trial ended on December 5, 2002.)
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STATE OF ALABAMA
IN THE CIRCUIT COURT FOR THE COUNTY OF RUSSELL
TWENTY-SIXTH JUDICIAL CIRCUIT
CRIMINAL

STATE OF ALABAMA

v.

Case Nos. CC 02-186, 187, 188

JERRY E. WHITLEY,

Defendant.

S E N T E N C I N G

Before:

Honorable George R. Greene
Phenix City, Alabama - January 14, 2003

APPEARANCES:

For the State:
J. Maxwell Smith, Esq.
Assistant District Attorney

For the Defendant:
Laurel W. Farrar, Esq.
Phenix City, Alabama

Linda S. Wilson
Official Court Reporter

1 THE COURT: Jerry Eugene Whitley?

2 (Defendant approaches the bench.)

3 THE COURT: This matter is set for
4 sentencing, the Defendant having previously been
5 adjudicated guilty of the offense of trafficking
6 in methamphetamine, unlawful possession of a
7 controlled substance, and resisting arrest.

8 Does he have anything to present prior to
9 the Court imposing sentence in these matters?

10 MS. FARRAR: No, Your Honor.

11 THE COURT: Does the State have anything at
12 this time?

13 MR. SMITH: Judge, Mr. Landreau on behalf of
14 the State asked me to remind the Court that based
15 on the weight of the drugs in this case, the
16 minimum sentence to be imposed would be 15 years,
17 plus the State is seeking a five-year enhancement
18 for use of a gun during this crime.

19 THE COURT: Anything further from either
20 party?

21 MR. SMITH: No, Your Honor.

22 MS. FARRAR: No, Your Honor.

23 (Brief pause.)

24 THE COURT: All right. The Court has
25 reviewed a pre-sentence report and at this time

1 in Case Number 02-187, the Court having
2 adjudicated the Defendant guilty of the
3 offense or rather 186 of trafficking in
4 methamphetamine would sentence the Defendant to
5 35 years in the custody of the Commissioner of
6 the Department of Corrections. That sentence
7 would run concurrent with the sentence imposed in
8 Case Number 02-187. The Defendant will be given
9 credit for any time served in jail against those
10 two sentences.

11 Court would assess a fine in the amount of
12 \$50,000.00, would direct the Defendant pay the
13 court costs of this case, a \$500 Victims
14 Compensation Fund fee, and would assess the
15 \$1,000 penalty mandated by the Drug Demand
16 Reduction Assessment Act. He'll be required to
17 attend and complete a substance abuse program
18 while in the custody of the Commissioner of the
19 Department of Corrections.

20 Court would assess a \$100 Forensic Services
21 Trust Fund fee. His driver's license will be
22 suspended for a period of six months. Defendant
23 is ordered to reimburse the State of Alabama the
24 cost of appointed counsel fees, and as a
25 condition of parole or participation in any work

1 release program or early release program, he's
2 ordered to pay all court-ordered monies.

3 He has the right to appeal his sentence and
4 conviction, and if declared indigent, he has the
5 right to appointed counsel, and a court
6 reporter's transcript will be provided without
7 cost to him.

8 In Case Number 02-187 on the charge of
9 unlawful possession of a controlled substance,
10 the Court having adjudicated the Defendant guilty
11 of that offense would sentence him to five years
12 in the custody of the Commissioner of the
13 Department of Corrections. That sentence would
14 run concurrent with any sentence imposed in Case
15 Number 186. The Defendant will be given credit
16 for any time served in jail against that
17 sentence.

18 He's ordered to pay the court costs of this
19 case, a \$100 Victims Compensation Fund fee, and
20 the \$1,000 Drug Demand Reduction Assessment Act
21 fee. He's ordered to attend and complete a
22 substance abuse program while in the custody of
23 the Commissioner of the Department of
24 Corrections. He's assessed a \$100 Forensic
25 Services Trust Fund fee. His driver's license

1 would be suspended for a period of six months.
2 He's ordered to reimburse the State of Alabama
3 the cost of appointed counsel fees, and as a
4 condition of parole or participation in any early
5 release or work release program, he's ordered to
6 pay all court-ordered monies.

7 He has the right to appeal his conviction
8 and sentence, and if declared indigent, he has
9 the right to appointed counsel, and a court
10 reporter's transcript would be provided without
11 cost to him.

12 In Case Number 02-188 on the charge of
13 resisting arrest, the Court would sentence the
14 Defendant to six months hard labor in the custody
15 of the sheriff of Russell County. That sentence
16 would run consecutive to any sentence imposed in
17 Case Number 02-186 and 187.

18 The Defendant is ordered to pay a \$10 per
19 day incarceration fee, the court costs of this
20 case, and a \$100 Victims Compensation Fund fee.
21 He's ordered to reimburse the State of Alabama
22 the cost of appointed counsel fees, if any, and
23 as a condition of probation or parole, he's
24 ordered to pay all court-ordered monies.

25 Again, he has the right to appeal his

1 conviction and sentence, and if declared
2 indigent, he has the right to appointed counsel,
3 and a court reporter's transcript would be
4 provided without cost to him. Thank you.

5 MS. FARRAR: Your Honor, I'd like to give
6 oral notice of appeal at this time on all three
7 cases.

8 THE COURT: All right and you'll need to
9 file that in writing.

10 MS. FARRAR: Yes, sir.

11 THE COURT: Thank you.

12 (End of proceedings.)
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CERTIFICATE OF COMPLETION OF REPORTER'S TRANSCRIPT

JERRY E. WHITLEY,
Appellant

v.

STATE OF ALABAMA

TO: The Clerk of the Court of
Criminal Appeals of
Alabama

On Appeal From the
Circuit Court of Russell
County

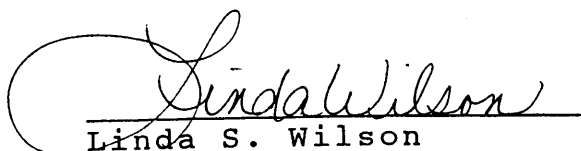
CASE NOS. CC 02-186, 187, 188

DATE OF NOTICE OF APPEAL:
January 14, 2003

I certify that I have this date completed and filed with the clerk of the trial court the original of a true and correct transcript of the proceedings designated in the Reporter's Transcript Order. All pages are numbered serially, in the upper right corner of each page, prefaced by a copy of the Reporter's Transcript Order (Page No. 1) and an index, and ending with the number appearing in the upper right corner of this certificate.

I certify that a copy of this certificate is this date being served on counsel for defendant, the Attorney General of Alabama, and the District Attorney, along with a copy of the index.

DATED this 2nd day of July, 2003.


Linda S. Wilson
Official Court Reporter